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REPORT OF THE SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Report of David Weissbrodt, Chairperson of the Sub-Commission at its fifty-third session, submitted in accordance with Commission resolution 2001/60

I. INTRODUCTION

1. In its resolution 2001/60 of 24 April 2001, entitled "Work of the Sub-Commission on the Promotion and Protection of Human Rights", the Commission on Human Rights invited the "Chairperson of the fifty-third session of the Sub-Commission to report to the Commission at its fifty-eighth session, including an assessment of how recent enhancements of the effectiveness of the Sub-Commission and of its mechanisms have worked in practice". This report is submitted in response to that request.

2. The United Nations Sub-Commission on the Promotion and Protection of Human Rights (Sub-Commission) met for three weeks, from 30 July through 17 August 2001, for its fifty-third session. At its fifty-third session the Sub-Commission went through a substantial restructuring as a result of reforms adopted by the Commission at its fifty-sixth session in April 2000. That restructuring was evident in the agenda of the fifty-third session, which was substantially revised and rationalized for the first time in many years. The streamlined agenda contained only 7 agenda items as opposed to the 14 agenda items discussed in previous years and permitted the Sub-Commission to achieve much despite the Commission's decision in 2000 to reduce the Sub-Commission's session from four to three weeks.

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3. At the 1st meeting of the session, the Sub-Commission received H.E. Mr. Leandro Despouy, the Chairperson of the fifty-seventh session of the Commission on Human Rights, who addressed the Sub-Commission, pursuant to Commission resolution 2001/60. Further to a suggestion of the Bureau of the Commission, the Sub-Commission also held a closed joint meeting on 31 July 2001 with the expanded Bureau of the fifty-seventh session of the Commission, at which there was an exchange of views about how the Sub-Commission could play an important role in assisting the Commission, on the one hand, and how the Commission could facilitate the work of the Sub-Commission in achieving its objectives, on the other. There was consensus that such encounters should be continued each year, so that cooperation and communication between the Commission and the Sub-Commission could be improved.

II. INSTITUTIONAL AND PROCEDURAL ACHIEVEMENTS OF THE FIFTY-THIRD SESSION

4. On the same morning, the Sub-Commission, in accordance with the request in resolution 2001/60 met in private session to adopt its timetable and decide other organizational matters, thereby avoiding an unproductive procedural discussion in public.

5. The exchange of views during the joint consultations between the Commission's Bureau and the Sub-Commission, as well as Commission resolution 2001/60, encouraged a change in the way the Sub-Commission organized its public sessions. Instead of mechanically following the list of speakers, debates on each agenda item were restructured around reports, working papers and substantive issues, so that there was some cohesiveness to the deliberations.

6. Inspired by the resolution 2001/60 and its discussion with the Bureau of the Commission, the Sub-Commission improved its methods of work by undertaking a number of other procedural reforms to enhance its efficiency and effectiveness. Those reforms were generally well received by members of the Sub-Commission and observers alike. Interactive discussions were fostered and a "question and answer" format was used, particularly during the early part of the session when there was sufficient time. In addition, to the extent that there was sufficient time available, the Sub-Commission drafted many of its resolutions in private sessions rather than engaging in the spectacle of the public drafting of resolutions by such a large group. Further innovative reforms included, the Bureau inviting authors of working papers and comprehensive studies, as well as chairpersons of working groups, to meet informally with interested parties for more open and less formal discussions regarding their work. The Chairperson met regularly with non-governmental organizations at the beginning of each week of the session to discuss the Sub-Commission's progress and to answer questions that arose. The Sub-Commission continued the tradition of the past three years by starting its meetings promptly and was able for the first time in many years to manage its debates so that there was no need to shorten the speaking time of observers towards the end of the session. The Sub-Commission found a balanced approach to discouraging criticisms by Governments of other Governments that might belong in the context of the intergovernmental Commission, but are not generally appropriate in an expert body such as the Sub-Commission. Furthermore, for the first time the Chairperson was authorized to discourage personal attacks against any participant and that authority was occasionally exercised.

III. TWO PROPOSALS TO THE COMMISSION

7. Two proposals arose from the joint consultations of 31 July 2001 by which the Commission could assist the Sub-Commission to improve its work even further.

8. First, the Sub-Commission was encouraged by the positive impetus of this year's meeting with the Commission's Bureau to propose unanimously that the Commission seek authority from the Economic and Social Council to act upon the Sub-Commission's requests for studies and other concrete measures at the informal meeting of the Commission in September, rather than wait until the following April.

9. As matters stand now, if the Sub-Commission makes a proposal for a new study in August, the responsible Sub-Commission member is left in uncertainty for about eight months - until April of the following year - before learning whether the Commission has approved the proposal. In practice, preliminary reports must be submitted 10 weeks before the Sub-Commission's session begins in late July in order to be edited, translated and distributed. Accordingly, if the Sub-Commission member waits for the Commission's approval in April, the member must submit his or her preliminary report within one month, that is by May, in order for the document to be processed in time for the Sub-Commission's session. Some members have worked for eight months in the expectation that their study would be approved, only to be disappointed in April. Others have waited until the April approval and then had to produce less than complete preliminary reports by the May deadline. The present procedure effectively results in the loss of an entire year in the preparation of studies.

10. The approach proposed by the Sub-Commission is somewhat analogous to the Commission's own successful requests to the Economic and Social Council for early action on new special procedures mandates.

11. A similar procedure by the Commission on Human Rights would result in early action with respect to draft proposals submitted by the Sub-Commission and would improve its functioning as follows:

- early endorsement of draft proposals for studies;
- early endorsement of transmittal of notes verbales requesting information from Governments, intergovernmental organizations, NGOs, etc.;
- early endorsement of any proposed seminars or workshops that do not have financial implications.

12. In making this proposal the Sub-Commission is aware that the Commission has been reluctant to render definitive decisions at the informal September session, which was mainly intended to prepare for the Third Committee of the General Assembly. If the Commission can give at least provisional advice as to whether it would be likely that the study or similar procedural request of the Sub-Commission will be approved in April, it will substantially facilitate the work of the Sub-Commission.

13. The Sub-Commission is also aware in making this proposal that government delegations at the September meeting lack some of the personnel who ordinarily come from capitals to attend the full March/April session of the Commission and thus might be less prepared to render decisions on Sub-Commission initiatives. Sub-Commission proposals, however, are adopted by mid-August and thus are available for consultations with capitals more than a month prior to the late September informal meeting of the Commission. Hence, there should be enough time to consider those proposals with appropriate advice from ministries in home countries.

14. In addition to the suggestion of early action on Sub-Commission proposals, there was considerable discussion during the joint consultations of 31 July about the difficulties the Sub-Commission had been experiencing in completing its work during the shortened three-week session. Accordingly, the Sub-Commission unanimously made a second recommendation: that the Commission restore the fourth week of its session. In 2001 the Sub-Commission took 46 formal actions (24 resolutions and 22 decisions). During its first three-week session after the reduction in 2000 the Sub-Commission took 47 actions (27 resolutions and 20 decisions). During its 1999 session of four weeks the Sub-Commission took 46 actions (30 resolutions and 16 decisions). Similarly, the Sub-Commission took 45 actions (30 resolutions and 15 decisions) during its four-week session in 1998. Accordingly, after the mandated decrease from four to three weeks the decision-making product of the Sub-Commission has not significantly changed, but the time available for deliberations has been significantly reduced.

15. Accordingly, the two proposals of the Sub-Commission will make it possible for the Sub-Commission to fulfil more effectively its "think-tank" role and have the kind of deliberations which will improve the work of the Sub-Commission and also avoid the often embarrassing process of the public drafting of resolutions.

IV. STUDIES AND ACTIVITIES

16. In accordance with the conclusions of the Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights (see E/CN.4/2000/112) endorsed by the Commission in decision 2000/109 and reaffirmed in resolution 2001/60, the Sub-Commission can best assist the Commission by providing it with:

(a) Independent expert studies carried out by its members or alternates;

(b) Recommendations based on, and after full consideration of, these studies; and

(c) Studies, research and expert advice at the request of the Commission.

17. At its fifty-third session the Sub-Commission continued five studies which the Commission had approved in the past and also completed work on the question of indigenous peoples and their relationship to land. It would seem that the Sub-Commission's present studies on globalization, terrorism, traditional practices affecting the health of women and the girl child, affirmative action, and the rights of non-citizens deal with some of the more difficult and noteworthy issues facing the human rights community.

18. At its 2001 session the Sub-Commission received the final working paper by Erica-Irene A. Daes (member from Greece) on indigenous peoples and their relationship to land (E/CN.4/Sub.2/2001/21). The final working paper proposed a set of fundamental guiding principles regarding indigenous peoples' lands, territories and resources. Mrs. Daes also made a number of recommendations to the Permanent Forum on Indigenous Issues that has recently been established.

19. As authorized by Commission decision 2000/102, Joseph Oloka-Onyango (expert from Uganda) and Deepika Udagama (alternate from Sri Lanka) presented their progress report on globalization and its impact on the full enjoyment of all human rights (E/CN.4/Sub.2/2001/10). The report discussed the impact of intellectual property rights on human rights, suggesting that any document addressing trade-related intellectual property rights to emerge from States members of the World Trade Organization (WTO) should contain specific language to the effect that no provision in the Trade Related Intellectual Property Rights (TRIPS) Agreement prohibits members from taking measures to provide access to medicines at affordable prices and to promote public health and nutrition. The report also examined mechanisms, including in particular the dispute settlement mechanism in operation at WTO as well as poverty-directed efforts at the World Bank and the International Monetary Fund (IMF), including the Highly Indebted Poor Countries (HIPC) initiative. In addition, the report illustrated how the international financial and trade institutions are bound by international law, including international human rights law, and indicated that subsequent reports will provide further support for that conclusion.[1] Representatives of the IMF, World Bank and WTO participated actively in the discussion of the report.

20. In 1998 the Commission on Human Rights and the Economic and Social Council approved the appointment of Kalliopi Koufa (alternate from Greece) to prepare a study on terrorism and human rights. In 2001 Mrs. Koufa submitted a progress report (E/CN.4/Sub.2/2001/31), in which she provided information on the development of international action on terrorism; addressed problems regarding the definition of terrorism; focused in particular on the actors or potential perpetrators of terrorism as well as on the need to distinguish terrorism from armed conflict; explored the threat of mass destruction as a result of terrorism and the wide-ranging debate that is currently being carried on concerning contemporary forms of terrorism; discussed the impact of terrorism on human rights and responded to several issues posed by the Commission in its resolutions of 1999 and 2000.

21. At its 2001 session the Sub-Commission received a fifth report (E/CN.4/Sub.2/2001/27) on the situation regarding the elimination of traditional practices affecting the health of women and the girl child, submitted by Halima Embarek Warzazi (member from Morocco). The fifth report recounted efforts since the previous report in 1999 to deal with this problem at the international, regional and national levels.

A. Studies undertaken pursuant to the Sub-Commission's cooperation with the treaty-monitoring bodies

22. One way in which the Sub-Commission contributes to the field of human rights is by cooperating with the treaty-monitoring bodies. In an effort to further such cooperation, the Sub-Commission has prepared studies for the benefit of those bodies. In continuing its ongoing

cooperation with the Committee on the Elimination of Racial Discrimination (CERD), in particular, the Sub-Commission received a progress report on the concept and practice of affirmative action and a preliminary report on the rights of non-citizens - both of which had been requested by CERD and then authorized by the Commission and the Council.

23. Special Rapporteur Marc Bossuyt, former Sub-Commission expert from Belgium who now serves on CERD, presented his progress report on the concept and practice of affirmative action (E/CN.4/Sub.2/2001/15). Mr. Bossuyt told the Sub-Commission that with the approval of the Commission he had distributed a questionnaire to Governments over a year previously and was still awaiting more replies.

24. The Special Rapporteur on the rights of non-citizens presented his preliminary report (E/CN.4/Sub.2/2001/20 and Add.1) and expressed concern that existing standards have not adequately protected the human rights of non-citizens and that Governments have increasingly been making distinctions between different categories of non-citizens and between non-citizens of different States. The Sub-Commission requested authority from the Commission for dissemination of a questionnaire to assist in gathering information for a progress report to be submitted at the next session of the Sub-Commission.

25. In addition, the Sub-Commission responded to a 1997 request from CERD by requesting, in decision 2001/122, Paulo Sérgio Pinheiro (expert from Brazil) to prepare a working paper without financial implications, on property restitution for refugees and other displaced persons. That working paper will not only provide an examination of current international, regional and national standards relating to property restitution but will also lay the groundwork for a more comprehensive examination of this matter.

B. Realization of economic, social, and cultural rights including the right to development

1. The Social Forum

26. As authorized by the Commission in decision 2001/103, the Sub-Commission devoted a day to discussions on plans for holding the first Social Forum during the Sub-Commission's fifty-fourth session in August 2002. The first half of the day allowed Sub-Commission members, NGO and government representatives and other interested parties to discuss the role the Social Forum would play. In the afternoon the Sub-Commission, for the first time in its history, held a special debate involving a panel discussion of distinguished outside experts. The panel discussion, to select the principal topics for the Social Forum, paralleled the innovative approach the Forum is expected to pursue. For the first time there was a real dialogue between the human rights community, on the one hand, and the relevant global economic institutions, including the IMF, World Bank and WTO, on the other.

27. At the conclusion of the discussion, the Sub-Commission decided that the principal issue for the first session of the Social Forum in 2002 should be "The relationship between poverty reduction and the realization of the right to food". Importantly, the Sub-Commission extended an invitation to participate not only to NGOs in consultative status with the Economic and Social

Council but to other NGOs and particularly to newly emerging actors in the South, such as grass-roots organizations, community organizations, trade unions and associations of workers, representatives of the private sector and others.

28. In its resolution 2001/24, the Sub-Commission requested the Commission on Human Rights "to authorize the holding in Geneva of a pre-sessional forum on economic, social and cultural rights before the fifty-fourth session of the Sub-Commission, to be known as the Social Forum, for two days, with the participation of ten members of the Sub-Commission, taking into account regional representation". If the attention paid to the Social Forum at this year's meeting is any indication, there should be a very lively debate with respect to how economic, social and cultural rights can and should be promoted and protected in a globalizing world when the Social Forum convenes next year for its first substantive meeting.

2. Sessional working group on transnational corporations

29. After the Sub-Commission's sessional working group on the working methods and activities of transnational corporations (TNCs) met for the third time this year, the Sub-Commission, in resolution 2001/3, renewed the working group's mandate for another three years, inter alia to contribute "to the drafting of relevant norms concerning human rights and transnational corporations and other economic units whose activities have an impact on human rights". This formulation indicates that the working group should develop standards that focus on TNCs but also cover other companies. The Sub-Commission encouraged the drafting of such norms and other studies to be submitted to the working group during the fifty-fourth session of the Sub-Commission, "taking into account the comments and contributions from experts and any other sources, particularly the specialized agencies of the United Nations system, including the International Labour Organization, the World Health Organization and the United Nations Educational, Scientific and Cultural Organization, so that a binding instrument can be drafted".

3. Further resolutions on economic, social and cultural rights

30. This year the Sub-Commission adopted a number of further resolutions addressing economic, social and cultural rights as well as activities that potentially affect those rights. These resolutions covered a range of issues including extreme poverty (resolution 2001/8), drinking water and sanitation (resolution 2001/2), the right to food (resolution 2001/7) the non-discrimination clause in article 2 (2) of the International Covenant on Economic, Social and Cultural Rights (resolution 2001/23) and the draft optional protocol to the Covenant on Economic, Social and Cultural Rights (resolution 2001/6). Resolutions on related issues included those covering intellectual property and human rights (resolution 2001/21), globalization (resolution 2001/5) and the liberalization of trade in services and human rights (resolution 2001/4).

31. With respect to the subject of extreme poverty, the Sub-Commission acted promptly upon a request from the Commission to explore possibilities for the implementation of existing human rights norms and standards as a means of combating extreme poverty. The Sub-Commission appointed four of its members - Paulo Sérgio Pinheiro, Yozo Yokota (expert from Japan),

El-Hadji Guissé (expert from Senegal) and José Bengoa (expert from Chile) - to prepare a working paper on the need to develop guiding principles on the implementation of existing human rights norms and standards in the context of the fight against extreme poverty.

32. In its resolutions the Sub-Commission renewed its request for authorization of a study on the right to drinking water and sanitation. The Sub-Commission also responded to a request from the Committee on Economic, Social and Cultural Rights for a working paper on the non-discrimination clause in article 2 (2) of the International Covenant on Economic, Social, and Cultural Rights.

C. Other studies

33. In its resolution 2001/71 the Commission requested the Sub-Commission to consider what contribution it could make to the reflections of the International Bioethics Committee on the follow-up to the Universal Declaration on the Human Genome and Human Rights. The Sub-Commission began that process by adopting decision 2001/113 in which it selected one of its members (Iulia Motoc from Romania) to prepare a working paper. Other working papers initiated by the Sub-Commission in 2001 for presentation at the 2002 session include examinations of indigenous peoples' permanent sovereignty over natural resources (resolution 2001/10); the question of the trade and carrying of small arms and light weapons and the use of such weapons in the context of human rights and humanitarian norms (decision 2001/120); and the testing, production, storage, transfer, trafficking or use of weapons of mass destruction or with indiscriminate effect, or of a nature to cause superfluous injury or unnecessary suffering, including the use of weaponry containing depleted uranium (decision 2001/119).

34. Additionally, the Sub-Commission authorized expanded working papers on reservations to human rights treaties (resolution 2001/17), measures provided in the various international human rights instruments for the promotion and consolidation of democracy (decision 2001/114) and discrimination based on work and descent (decision 2001/110).

D. Administration of justice

35. The Sub-Commission considered a working paper on discrimination in the criminal justice system (E./CN.4/Sub.2/2001/WG.1/CRP.1) submitted by Leïla Zerougui (expert from Algeria) and initially prepared for the Sub-Commission's sessional working group on the administration of justice. The working paper, inter alia, discussed the persistence of discrimination as a widespread problem, with each region of the world having its own particular type of discrimination in courts, police stations and prisons. The Sub-Commission requested Ms. Zerougui to continue her research and submit a final working paper on the subject to the Sub-Commission at its next session (decision 2001/104).

36. The Sub-Commission adopted decision 2001/105 expressing concern "at the allegations of serious violations of human rights on the part of personnel serving in peace support operations", and entrusted "Françoise Hampson [member from the United Kingdom] with the task of preparing, without financial implications, a working paper on the scope of the activities

and the accountability of armed forces, United Nations civilian police, international civil servants and experts taking part in peace support operations, for submission to the Sub-Commission at its fifty-fourth session".

E. Pre-sessional working groups

37. The Sub-Commission makes a unique contribution to the human rights field through its four inter-sessional working groups on minorities, indigenous populations, slavery and communications. The working groups provide the possibility for a participatory study of current issues, trends and difficulties in thematically important areas, and involve monitoring of human rights problems by providing a channel for the airing of grievances. There is apparently no other venue in the United Nations where minority issues are being addressed as intensively as in the Sub-Commission's Working Group on Minorities. The Working Group on Indigenous Populations has also made important strides in the past by drafting a proposed declaration on the rights of indigenous peoples and continuing to hear the concerns of indigenous communities from around the world. The other working groups, too, help maintain the Sub-Commission's distinct role in protecting and promoting human rights.

F. Debate on reparations and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

38. Since the Sub-Commission's fifty-third session coincided with the Preparatory Committee for the World Conference, which was meeting in the Palais des Nations during the same period, the Sub-Commission presaged the deliberations of the World Conference in discussing and adopting a resolution that, inter alia, suggested various means of reparation including cooperation in development of affected peoples, debt cancellation, implementation of the "Tobin tax", technology transfers and restoration of cultural objects (resolution 2001/1). In the same resolution, the Sub-Commission stated that it was "convinced that such recognition and reparation will constitute the beginning of a process that will foster the institution of an indispensable dialogue between peoples whom history has put in conflict for the achievement of a world of understanding, tolerance and peace".

G. The Sub-Commission's debate on country situations

39. In decision 2000/109 the Commission decided to "approve and implement comprehensively and in its entirety" the report of its inter-sessional open-ended Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights. That report recommended a series of significant changes that, for the past two sessions, have altered the ways in which the Sub-Commission considers specific country situations. Namely, the report recommended that while the Sub-Commission should continue to debate country situations not being dealt with by the Commission, and while it should also be allowed to discuss urgent matters involving serious violations of human rights in any country, the Sub-Commission should not adopt country-specific resolutions. In addition, the Commission's Working Group recommended that the Sub-Commission refrain from negotiating and adopting thematic resolutions that contain references to specific countries. With the decision by the Commission to implement the report of its Working Group and the subsequent approval by the Economic and Social Council, those recommendations became directives to the Sub-Commission.

40. Prior to the Commission decision to alter the working methods of the Sub-Commission vis-à-vis specific country situations under its agenda item 2, the Sub-Commission had for many years adopted resolutions identifying at least a few countries in which human rights situations required expressions of concern by the United Nations. In the recent past, the Sub-Commission took action with regard to human rights violations in Bahrain, Belarus, the Republic of the Congo, the Democratic People's Republic of Korea, Mexico, Peru and Togo - all States that had not been the subject of significant attention by the Commission. The ability to prepare draft resolutions on country situations was a very effective means of encouraging constructive dialogue and negotiation between the Sub-Commission and Governments responsible for human rights violations. That approach resulted not in a large number of adopted country-specific resolutions, but rather in a series of statements by the Chairperson accompanied by concrete commitments, voiced and put on the public record, by various Governments to improve the human rights situations within their respective nations.

41. There are a number of reasons why the use of country-specific resolutions by the Sub-Commission has been of value to the international human rights community. First and foremost, as indicated above, when handled appropriately country resolutions, statements by the Chairperson and even mentioning a particular situation (e.g. in Tunisia) have proved successful in persuading Governments to undertake human rights improvements. Second, the Sub-Commission provided an opportunity to address developing human rights crises or emergency situations immediately as opposed to waiting for the Commission's next session, which might be up to seven months away. After all, within 30 days after the Sub-Commission's session ended the world had dramatically changed - with the close of the World Conference against Racism and the attacks of 11 September. World developments move so fast that it is important for the Sub-Commission to respond to the contemporaneous events. Third, because country work has attracted the attention of Governments, intergovernmental organizations and NGOs, such efforts have maintained a high degree of visibility of both thematic and country-specific human rights concerns. The resulting transparency has helped ensure not only the Sub-Commission's effectiveness, but also has given human rights situations much-needed visibility. Fourth, because the Commission cannot possibly, for political and/or practical reasons, shed light on all countries in which there are severe and consistent patterns of human rights abuse, the Sub-Commission has used country-specific resolutions and statements by the Chairperson to help identify and put pressure on those countries which may not have received adequate attention in other human rights bodies. Fifth, the Sub-Commission should be able to apply its expertise to particular situations.

42. Unfortunately, the Sub-Commission is now discouraged from adopting country-specific resolutions and is thus less able to replicate the results it has achieved in the past. The inability to pursue country work openly and diligently has significantly hampered the Sub-Commission's capacity to promote and protect human rights around the world. One predictable consequence of the Commission's decision to discourage the Sub-Commission from adopting country resolutions has been a decline in NGO participation in the debate on item 2. Only 21 NGOs spoke in 2001 under item 2, compared with 29 in 2000 and 33 in 1999. Hence, in just two years there has been nearly a 40 per cent decrease in NGO participation under agenda item 2. NGOs are the lifeblood of the human rights movement and of the Sub-Commission's work. Such a decline can diminish the Sub-Commission's impact.[2]

43. Nonetheless, as authorized by Council resolution 1235 (XLII) of 6 June 1967 and decision 2000/284 of 28 July 2000, and as encouraged by Commission resolution 2001/60 and decision 2000/109, the Sub-Commission discussed under its agenda item 2 urgent matters involving serious violations of human rights in countries that were also under consideration in the Commission. Members of the Sub-Commission and NGOs expressed concern about the recent, serious escalation of violence in Israeli-occupied territories. NGOs also brought to the attention of the Sub-Commission new developments in both Afghanistan and the Chechen Republic of the Russian Federation.

44. With regard to country situations not currently being dealt with in the Commission, members of the Sub-Commission addressed human rights concerns in regard to Algeria, Angola, Bhutan, Brazil, China and the Democratic People's Republic of Korea, the detention of aliens throughout Europe, the demonstrations against the meetings of the Group of eight (G-8) and the alleged police brutality in Genoa, Italy, as well as situations in Côte d'Ivoire, Cyprus, France, Greece, Guatemala, Indonesia, India (Jammu and Kashmir), Japan, Liberia, the Marshall Islands, Mexico, Nepal, the Philippines, the Russian Federation, Saudi Arabia, Sri Lanka, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania and the United States of America.

45. NGOs added concerns during the debate about Belarus, Bhutan, Brazil, Cameroon, Egypt, Guatemala, India (Jammu and Kashmir), Indonesia (as to the Moluccas), Japan, Malaysia, Mexico, Nepal, Pakistan, the Philippines, Saudi Arabia, Tunisia, Turkey, the United States (as to military operations in Vieques, Puerto Rico) and Uzbekistan and in Western Sahara. Furthermore, written statements submitted by NGOs under this agenda item included allegations concerning violations against Tibetans in China, as well as concerns in India, northern Uganda and Peru. In addition, a detailed NGO statement submitted under this agenda item identified alleged caste discrimination practices in Bangladesh, Burkina Faso, Burundi, Cameroon, Egypt, Guinea, Japan, Mali, Mauritania, Mauritius and Nepal.

46. Eleven government observers spoke under item 2: Algeria, Azerbaijan, Bahrain, Bhutan, Democratic People's Republic of Korea, Egypt, Indonesia, Iraq, Malaysia, Pakistan and Turkey. Of these 11 Governments, 5 spoke in right of reply and Bahrain, Bhutan, Pakistan and Turkey took the opportunity during their interventions to announce major new reforms on human rights initiatives during the past year, and commitments to continued implementation of these and other human rights changes.

47. In the end, the Sub-Commission did adopt one resolution and one decision that, arguably, related specifically to particular country situations. A resolution on the situation of women and girls in territories controlled by Afghan armed groups raised the issue of whether it was within the limits of the Commission's decision for the Sub-Commission to make reference to a particular country situation under certain circumstances. As the Sub-Commission had done in 2000 without specific objection from the Commission, resolution 2001/15 referred to territories controlled by Afghan armed groups rather than naming Afghanistan explicitly. Although some Sub-Commission members expressed doubt as to whether this action was permitted, others noted the urgency of the situation and that the Commission had not expressly disapproved of previous Sub-Commission resolutions on this subject.

48. Similarly, the Sub-Commission again adopted a decision (2001/115), without a vote, addressing the human rights situation of the Iraqi population. The decision principally focused on the grave humanitarian consequences of the sanctions regime imposed upon Iraq and did not criticize directly the Government of Iraq or any Government supporting the sanctions, but did recognize the role of sanctioning the Government of Iraq in the ongoing humanitarian crisis facing the population of that country.

V. CONCLUSIONS AND RECOMMENDATIONS

49. After the fifty-third session there was a general sense that the Sub-Commission was again emerging as an expert body filling a unique role in the promotion and protection of human rights. The Sub-Commission pursued six path-breaking studies authorized by the Commission and responded to each of the Commission's requests for the initiation of working papers in preparation for studies. The Sub-Commission has particularly strengthened its expertise in the area of economic, social and cultural rights, and that expertise is manifesting itself in the development of the Social Forum and a number of thoughtful and timely studies and resolutions, including those on globalization, international trade and human rights, the effect of intellectual property on human rights, and the relationship between businesses and human rights. The Sub-Commission, of course, has not lost sight of the continuing importance of civil and political rights, and this year continued its debate on country situations and contributed to the examination of the administration of justice, including discrimination in the criminal justice system.

50. The Sub-Commission, however, was hindered by time constraints. The Sub-Commission did not have enough time to draft resolutions with adequate consultations among members. Both draft resolutions and studies were not made available in time for thorough consideration as the Secretariat itself lacked the time to prepare the relevant documents. Responding to this problem, the Sub-Commission unanimously requested the Commission to restore the four-week duration of its annual session (decision 2001/117).

51. Inspired by its meeting with the Commission's expanded Bureau, the Sub-Commission further proposed that the Commission seek authority from the Economic and Social Council to provide at least a provisional decision about Sub-Commission requests for studies and other concrete measures at the Commission's one-day informal meeting in late September rather than having to wait until March/April for a decision by the Commission (decision 2001/116). If the Commission approves those two measures, the Sub-Commission will be able to fulfil more effectively its "think-tank" role.

Notes

[1] For the report's conclusions and recommendations, see E/CN.4/Sub.2/2001/10, paras. 72-75.

[2] It should be noted, however, that there has been a compensating increase in NGO participation in the Sub-Commission's discussion of economic, social and cultural rights.